IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.02.2002
CORAM
THE HON'BLE MR.JUSTICE P.SHANMUGAM
SECOND APPEAL NO. 647 OF 1990
...
P.A.Ayyaswami ..Appellant
Vs.
1.The Excise Officer
Coimbatore
2.The Revenue Divisional officer,
Coimbatore.
3.The State of Tamil Nadu
by its Collector, Coimbatore ..Respondents

Second Appeal is preferred against the judgment and decree dated 26
.11.1988 rendered in O.S.No.801 of 1985 on the file of the V
Additional Sub Judge, Coimbatore, confirmed in A.S.No.5 of 1989 dated 31.8.1989 on the file of the Principal District Judge,

! For Appellants :: Mr.S.Jayaseelan
^ For Respondents:: Mr.S.Sathiamurthi
Govt.Advocate

: JUDGEMENT
The unsuccessful plaintiff before the courts below is the
appellant.
2. The appellant filed the suit for recovery of Rs.19,300/=
representing the Earnest Money Deposit and expenses incurred by him to
locate the alternative toddy shop. The suit was resisted by the
respondents herein and ultimately the suit came to be dismissed and
confirmed in appeal as well.
3. The facts are that the appellant was the successful bidder for running a toddy shop in Thondamuthur Village in Coim
the period from July 1983 to first July 1984. However the location of the said shop was objected to by the public and theref
authorities directed the appellant not to locate the shop. On the
representation of the plaintiff the authorities permitted the appellant to
find out and locate alternative place for running the toddy shop. The
appellant also made preparations to locate his shop in S.F.No.272 of
the same village. However, in the meanwhile a neighbouring toddy shop owner raised an objection and filed Writ Petition. In
legal proceedings, the Revenue Divisional Officer directed the
appellant to shift his shop to some other unobjectionable place. However
the appellant could not locate the shop and after issuance of lawyer's notice dated 11.3.1984 filed the above suit for recov
0/=. In the meanwhile the respondents had also issued a notice
directing the appellant to pay a sum of Rs.28,340/= for the notional
loss of kist and on his failure, to invoke the Revenue Recovery
Proceedings. Therefore the above suit came to be filed.

4. The respondents opposed the suit inter alia contending that the suit is barred by Section 56.B of the Tamil Nadu Prohibition Act and the Rules made thereunder inasmuch as the civil court has no jurisdiction to entertain the suit. The respondents also claimed a sum of Rs.28,340/= being the notional loss due to the failure to select the suitable and unobjectionable site in the notified area and run the shop. Both the courts concurrently found that Section 56.B of the Tamil Nadu Prohibition Act bars the Civil Courts to entertain the suit. The Government Order issued in G.O.Ms.101, dated 16
Revision Rules 1983". As per this provision for an appeal has been made to the Collector against any order of the Revenue Department, subordinate to the Collector. The Rules provide a further appeal to the to the Joint Commissioner. The Rules provide for a period of limitation and the fees payable for an appeal. The procedure for hearing of the appeal has also been set out in the above said Rules.
5. In the light of the clear mandate contained under Section 56.B, no Civil Court shall have jurisdiction in respect of any
which a Commissioner or other officer has got authority to determine.
Section 9 bars trial of civil suits, the cognizance is either expressly or impliedly barred. Hence, I do not find any ground to interfere with the confirming judgment. No question of law
appeal. The second appeal fails and it is dismissed. No costs.

Index:yes/no 08-02-2002

To
1.The District Judge,
Coimbatore

2.The Subordinate Judge,
Coimbatore

3.The Section Officer,
V.R.Section, High Court, Chennai-104.

Gkv.
P.SHANMUGAM,J.,

Second Appeal No.647/1990

Dated 08.02.2002